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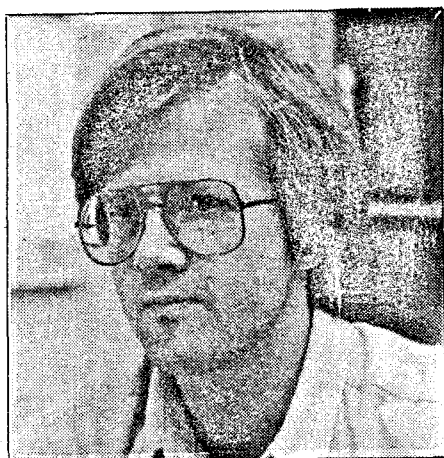
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Law Revue VI

Vol. 14 No. 13

Friday, February 24, 1984



Murphy to Head SBA

by Julie Riley

The Student Bar Association at the N.L.C. held its elections last Thursday, February 16, for members of the upcoming term of office. SBA members manned the polls in Lerner's lower lobby all day and evening, while more than 600 students cast their ballots. Officers spent the night tallying the votes, and by ten o'clock the results were final. Anxious candidates were awaiting the news in the nearby 21st Amendment, where these friendly foes wished each other luck.

The Day-Night running-mates won, with Kent Murphy, president, and Ken Woolcott, night vice-president. Their platform, which was circulated throughout election week, addresses key issues presently facing the law school: (1) establishing an advisor-advisee system between interested faculty and the

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Night School Vote

Inside the Faculty Meeting

by Christopher Stock and Brian O'Donnell

Last Friday at its monthly meeting, the NLC faculty voted 21 to 18 to eliminate the NLC's evening JD program. The meeting lasted over three hours. Below is an attempt to provide the reader the substance of that important meeting.

After preliminary business was concluded, Prof. Harold Green, Chair of the Committee on the 80s was recognized by Dean Barron to present the proposal. Green began his discussion with an immediate admission that the proposal was overwhelmingly opposed by students and alumni. "Over the past few weeks," he said, "I have received well over 100 letters ... well over 100 phone calls on this matter."

"These comments have been overwhelmingly negative, if not hostile to the proposal," he said. Green indicated that he had received only one letter in support of the proposal.

C/NC Options Under Review

by H. Glen Rosenkrantz and Christopher Stock

The Scholarship Committee will next week open discussions aimed toward formulating a proposal to amend the credit/no credit (C/NC) grading option currently available to students under NLC regulations.

J.D. candidates may now take, in addition to courses regularly given on a C/NC basis, 12 semester hours of elective course work on a C/NC basis. However, there is a 17 semester hour cap on total course work that may appear on a student's record as such. This cap includes courses which are normally graded C/NC, plus courses taken under the C/NC option

upon a student's election.

One of the concerns of the Scholarship Committee revolves around the use of the current system by students to maintain a certain grade average.

Under the current system, credits taken C/NC are not entered into a student's average. Thus, taking courses C/NC will not serve to sacrifice a high average.

A recent memo circulated among committee members by Prof. Peter Raven-Hansen points out that "the option probably hurts students in the scramble for jobs." This echoes the concern by many students and faculty members that a

plethora of C/NC options appearing on a student's transcript may not appear well to a prospective employer.

John Jenkins, Assistant Dean for Career Development, agrees. "From a prospective employer's point of view, the fewer classes taken Credit/No Credit, the better," Jenkins said.

Raven-Hansen proposes the elimination of the C/NC option all together. Under his proposal, individual professors could still offer their courses C/NC, students could still take make-up exams C/NC legal writing, moot court, clinics, etc. would remain C/NC, and C/NC would still be the only permitted grade for courses taken away from the NLC. No other courses would be C/NC however.

Raven-Hansen, in his memo to the Scholarship Committee, takes a dim view of the present system. He doubts that the C/NC option does very much to relieve general grade pressure, and suggests that an argument can be made for "more grade pressure in the second and third years to motivate the lethargic and chronically unprepared."

He has harsh words for students who avoid "hard" professors, referring to them as "slackers," and criticizes students who take all their courses C/NC in their final semester and "cruise" out of law school.

He further suggests that the student who develops health or domestic problems serious enough to distract from studies to the point that the person cannot risk

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After the recent release of Prof. Peter Raven-Hansen's C-NC memo, the SBA set up temporary sanctuary for besieged "slackers and cruisers."

Green said the controversy that has arisen about the proposal was expected. "However," he continued, "every law school that has (eliminated its evening JD program) has emerged a stronger and better law school as a result."

Green placed a strong emphasis on deciding the issue promptly. "I urge you to make your decision on this proposal today," he said. "I would rather see the proposal soundly defeated than to delay the vote another day," he said.

The proposal has been all absorbing in terms of time and energy, Green said, and had created tremendous emotional upheaval which has been detrimental to the law school. "This controversy is tearing us apart," he said. He added that the discussion over the month that the proposal was out had gotten abusive in nature at times and there had been "threats of physical violence made."

Addressing the merits of his arguments to end the evening JD program, Green said, "the central fact is that the demand for part-time legal education is drying up." There is no corresponding increase in demand in the evening program as there is in the day, he said. "The number of applicants to the night program remains constant, but the quality of the student as measured by GPA and LSAT is declining (in the evening JD program)," he said.

"It is a fact," Green said that in both 1982 and 1983 "we rejected the applications of more than 1000 day applicants who had better scores than more than 50% of the evening students."

Green said the disparity between day and evening entrance scores was likely to get worse. He said the decline in evening JD education was a national trend that has been going on for 25 years. "We are not alone," he told his colleagues.

The small number of applicants to the evening division takes away the law school's ability to be selective about who it admits to its programs, Green said. "As long as an evening applicant's scores are respectable," he said, "and we have reason to believe the body is warm, that person will be accepted."

"In all candor," Green continued, "there is a double standard applied in the admissions process." He said applications were split into two groups and different standards for admission were applied.

Green said he didn't feel it would be appropriate to spend more time looking into the data. He said it was tough to develop data on areas of concern such as comparisons of quality of students accepted versus performance in law school. He added that after such data were obtained, he believed it would make the

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evening JD students and alumni look worse and would provide additional injury to the law school.

Green also cited, in support of the proposal, curriculum reform and an opportunity to make intelligent, economical decisions about the use of NLC's limited resources.

During his talk, Green mentioned comments he had heard recently from Prof. John Cibinic. He said Cibinic felt the way the Committee on the 80s had handled the whole process was a "disgrace and embarrassment to the law school."

Upon Green's conclusion, Cibinic took the opportunity to explain his remarks. He said that the method and procedure of the Committee on the 80s had limited the opportunity for an open discussion. He denied Green's contention that statistics damaging to evening students should be withheld from discussion. "We have nothing to be embarrassed about with our night students," he said. "And if this university has warts," Cibinic said, "I think we ought to get them out into the open and parade them around for the world to see."

Cibinic then asked Barron about the origins of the proposal. Barron responded that the idea had originated with him. He said that in the course of regular meetings with Associate Dean Ed Potts and Assistant Dean Robert Stanek, the idea had come up to add another day section and drop the night division. Upon confirming to his satisfaction that it would be physically possible to add 100 students to the day division and the quality of student would remain high, Barron said he decided to approach the Committee on the 80s. He said that if the committee chose to go forward with the idea, he would pursue it. Barron indicated that he had spoken to University President Lloyd Elliot about the proposal, but that the idea behind the proposal was his own. "If you want someone to dislike, it is I," he said.

Barron said that he understood that the evening school was an old tradition at the NLC, however, "the world changes."

Next, Judge Lawrence Margolis, President of the Law Association, was recognized to speak. He urged the faculty to either postpone the vote until all arguments could be heard on the proposal, or in the alternative simply to vote it down. The Law Association, he said, was comprised of over 13,000 law alumni nationwide, and that "hundreds and hundreds of them have expressed their opposition to the proposal." He noted that night legal education had been a tradition at the law school for 119 years.

Undoubtedly the most heated oration of the afternoon came from Prof. Irving Kayton, who characterized LSAT and GPA statistics cited by the Committee on the 80s as "hogwash" when applied to evening students with science backgrounds. He said that students with science backgrounds come from disciplines which tend to grade lower than other respective fields.

Kayton told a story of a visit he had made to Rice University years ago to recruit engineering students. He said he once had an engineering student ask him what GPA he needed to get into the NLC. Kayton said he asked the student what his GPA was, and that the student replied, "2.92." Kayton said he told the student that he would not be accepted into the NLC with a 2.92 GPA. Kayton said the student was taken aback, considering that he was graduating first in his class from engineering school.

Kayton aimed a good deal of his remarks at the admissions office for the law school. He said they had ignored, in the summaries prepared for the Committee on the 80s, the fact that a significant number of evening students have advanced degrees. Kayton also offered examples of

the admissions office not understanding the importance of science and engineering honor societies to which evening applicants had been admitted.

The evening population is radically different from its daytime counterpart, and cannot fairly be compared with the day population on the basis of statistics alone, he said. "If you taught here for 20 years you don't need the data (provided by the Admissions Office)," he said. "You know the evening students are good by having had them in your classroom."

Countering the argument that had been raised that the evening division prevented curriculum reform, Kayton said that the problems with curriculum reform are "indigenous to the subject" and not a result of the evening division. He said that many of the reforms suggested by members of the Committee on the 80s had already been discussed, and could not be agreed upon due to reasons unrelated to the evening JD program.

Kayton said that the major impediment to lateral recruitment of faculty from other law schools has been the physical conditions in which the faculty has had to teach. That problem would change because of the new facilities, he said. "Why don't we give the new building a chance?" he asked. "It's not even finished."

At that point, Kayton raised the issue of additional faculty that had been promised to the NLC by the University if the evening JD program were discontinued. He said that if that were a concern, that he would personally take it upon himself to raise money to endow two chairs for the NLC. Kayton said that if after two years he had not raised sufficient funding through contributions, he would pay the difference out of his own pocket. He then promptly made a motion to table the proposal for five years. The vote failed 26 to 13.

Barron next yielded the floor to Prof. David Seidelson, the only dissenting faculty member on the Committee on the 80s. Seidelson spoke for nearly 50 minutes. His speech was divided roughly into three phases.

In the first phase, he, with the assistance of Assistant Dean of Admissions, Stanek, explored the statistics provided by Stanek to the Committee on the 80s.

Seidelson got Stanek to agree that information available suggested that, nationally, we may be in the first year of a ten year decline in applications to full-time law school. Seidelson noted that applications to the day program at the NLC had been down last year. Stanek said the last year's applications may not be a good indicator of any trends due to problems with LSAT change over to the 50-point scale. Seidelson also noted that applications to the NLC for this year are down 9.7 percent from last year at the same time.

When pressed by Seidelson, Stanek also confirmed that while day applicants with higher credentials than 50 percent of the evening division admissions were turned away from the day division, many of those students, even if accepted, would not come to the NLC. "The higher up you go in terms of GPA and LSAT scorers, the fewer number of students accepted to the NLC actually choose to come to the day division," Stanek said.

"Those people are competing nationally and often go elsewhere," Stanek said.

Stanek indicated that although it was impossible to say for sure, perhaps 300 more acceptances would have to be sent out to get 100 additional students for the day division.

In the second phase of his discussion, Seidelson challenged the merits of the arguments raised in the committee

Barbash Speaks of High Ct. Dynamics

by Sharon Hallanan

"It's probably the strangest beat I've ever had," said Fred Barbash, referring to his current position as Supreme Court correspondent for *The Washington Post*. In a recent lecture at the National Law Center, sponsored by the Jewish Law Students Assn. and the SBA, Barbash offered his insights on current dynamics at the Court and how it will be affected by the upcoming presidential election.

Noting that the next president's opportunity to appoint as many as five Supreme Court justices would "change the shape of the law well into the next century," Barbash outlined the changes which, in his opinion, would result from a Court of Reagan appointees.

There would be the most change soonest in the area of church and state. Citing recent cases which allowed paying for a chaplain for the legislature and tuition tax credits for parents of parochial school children, Barbash indicated a "much greater tolerance" for alleged mixing of church and state. He also foresees a change in the school prayer ruling.

The exclusionary rule will be "wiped out," Barbash said that a "good faith exception," further weakening the rule, is expected to be handed down this year.

Major changes would be seen in the area of civil rights. Noting that the Court has not taken any busing cases in four or five years, Barbash called it an "act of

plurality opinion.

He said he didn't find the plurality's argument about the lower credentials of some of the evening students to be persuasive. Seidelson rhetorically asked, "What is the significance of that 'significant' disparity?" He said the plurality opinion admitted that the evening division students do well. He also noted that Prof. Peter Raven-Hansen, in his separate concurrence to the plurality opinion, said that the statistics did not persuade him.

Seidelson noted that in October of last year, the Grade Disparity Committee had reported that there was no significant disparity between day and evening divisions. "The disparity is in numbers without significance," he concluded.

On the question of curriculum reform, Seidelson said that the plurality opinion had cited the placement of moot court competition for night students in their fourth semester as an example of the scheduling problems with the evening division. Seidelson agreed that that was "awkward," but, he said, "it doesn't justify ending the evening division."

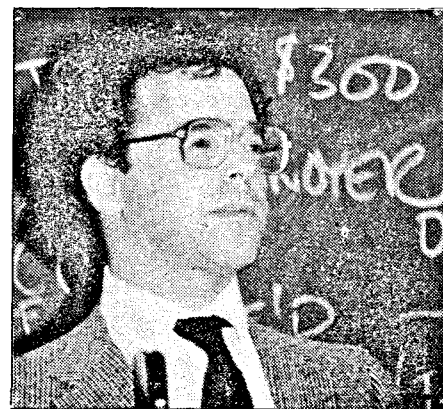
"The cure is far worse than the ailment," he said.

Seidelson challenged the plurality's argument that eliminating the evening division would allow for the optimum use of limited resources. He said that although the plurality report stated that the limited resources of the NLC 'obviously can be better used to educate full-time students,' it wasn't so obvious to him. And, he said that time spent preparing for evening classes was just as valuable as that spent for day classes.

The fourth reason cited the plurality opinion of the Committee of the 80s, the achievement of higher quality legal education, Seidelson called a "beauty." He said the statement sounded like the addendum clause to a plaintiff's complaint in a personal injury case. "It's wholly conclusory," he said.

Seidelson concluded that none of the reasons to eliminate the evening division cited by the plurality of the Committee members was persuasive.

Seidelson urged the faculty to be sensitive to opposition to the proposal by students and alumni. "We can use all the



statesmanship" in which the justices tacitly agreed not to make the current situation any worse. He noted that a similar strategy existed regarding reverse discrimination cases, but that a Reagan court would support changes in these area.

Access to the courts would become more difficult, through the stricter application of the standing doctrine and other such judicial devices. To demonstrate this trend, Barbash cited the 1983 case of *City of Los Angeles v. Lyons*, in which a plaintiff suffered injury because of a Los Angeles Police Department authorization of the use of chokeholds. The Court said Lyons was unable to establish standing to get an injunction against the policy because it was uncertain whether he would

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insight we can get," he said. Seidelson indicated that he had received 46 letters from alumni, with only one supporting the proposal. He cautioned the faculty take notice of the advice and counsel offered in the letters. He read a letter he had received from Judge Harold Greene, who had graduated first in his class from the night division. The letter urged the faculty to retain the evening program.

In the final phase of his discussion Seidelson addressed the question of what makes a "top 10" law school. He said that although he had no first-hand information about Harvard, he did know about the NLC.

"What determines the quality of a law school?" he asked. He said that he thought there were three elements to consider: the students, the faculty, and the physical plant.

As for the students, Seidelson said, "I find the students at the NLC a delight to work with." He said they were outstanding, conscientious, and highly competent.

Seidelson praised the members of the faculty at the NLC, and singled out for distinction several of his colleagues. He called many the foremost authorities in their respective fields, and referred to one as "the greatest law school teacher in the world."

The third element, the physical plant, Seidelson said was simply outstanding.

"All the elements are in place (for a first rate law school)," Seidelson said. "Let's not chose this moment to make a tragic mistake by ending the evening division," he said.

"It takes a wise person to know when things are not going well and to do something about them," he said. "But it takes a wiser person to see when things are going well and to afford oneself the luxury of enjoying it."

Kent Murphy, SBA President, next took the opportunity to remind the faculty that its actions would affect more than just the law school. He suggested the faculty had a "duty to the community to offer as diverse a program as possible."

SBA night Vice-president, Ken Woolcott, called the NLC's night division the best in the country. He told the faculty that the night division had not been hurt by the

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News Notes

The Competition

The Law Review and The Journal of International Law and Economics will hold their annual membership competition for first-year day students and second-year night students during the upcoming Spring break. The Law Review competition will run from Friday, The Law Review competition will run from Friday, March 16th to Monday, March 19th. The Journal, which will use the same competition as the Law Review, will run until Monday, March 26th. The competition, along with first-year grades, is used to determine membership on the Review and Journal. To be selected on the Review or Journal, a student must participate in the competition.

Two general meetings will be held to explain the details of the competition. They will be held on Wednesday, March 7th at 8:00 p.m. in Lerner Hall Room 201 and Thursday, March 8th at 4:30 p.m. also in Lerner Hall Room 201. Students entering the competition must attend one of these two meetings.

Irving Younger

On Wednesday, February 29, Professor Irving Younger will address a joint meeting of the D.C. Women's Bar Association, the American Medical Women's Association and the American Association of Women Dentists.

Professor Younger, a graduate of Harvard and New York University Law School, has been a defense attorney, a prosecutor and a judge. He has lectured on evidence and trial techniques with his own theatrical touch at New York University, Cornell, Columbia, Harvard and at numerous legal gatherings across the country.

The program will be held at the JW Marriott Hotel, 1331 Pennsylvania Ave. N.W. at 7 p.m., dinner at 8 p.m. Cost of

attending the program is \$4.00. Cost of attending both the program and the dinner is \$27.50. Reservations should be made in advance through the WBA, 1819 H St. N.W. Suite 300, Washington, D.C. 20006, 775-0420. There will be a \$2.00 surcharge for payments made at the door.

From the Library

by Mary Hotchkiss

On February 5, 1984, the Law Library was saddened by the news that Joseph W. Morris had died in his sleep at his home. Mr. Morris was responsible for looseleaf filing and circulation assistance at the library. He gave the law school community over fourteen years of service and his cheerful presence will be missed.

Update on Terminal Hours

LEXIS hours: Mon.-Fri. 8 a.m. - 2 p.m.; 5 p.m. - 11:30 p.m. Sat. - Sun. 10 a.m. - 10 p.m.

Westlaw Hours: Mon. - Fri. 8 a.m. - 2:30 p.m.; 5:30 p.m. - 11:30 p.m. Sat. - Sun. 9 a.m. - 9 p.m.

This has been a busy semester at the LEXIS and Westlaw terminals. The library has trained over 200 new users through 32 instruction classes on LEXIS this semester. Instruction classes for Westlaw are scheduled to begin in early March. Many of the new users are second semester first-year students who have had the opportunity to use the library's computer-assisted legal research facilities in conjunction with their Moot Court exercises. While heavy demand for the terminals has forced the library to limit reservations to one-half hour per person per day, the benefit has been that many new persons have gained experience in on-line techniques.

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Tenure: Grabbing a Corner of NLC's Security Blanket

by Michael Goldsmith

The tables are turned on these young, but formidable interrogators. It's now their turn to feel last night's dinner come back and haunt their knotted bellies. What goes on behind those closed doors? Four professors will experience the tenure selection process this year.

A faculty member comes up for tenure usually one year before the completion of a three or four year contract. The Dean gives the names of untenured professors to the Faculty Appointment Committee (FAC), which, along with a three member student committee, submits recommendations to the faculty. The faculty votes, and sends its findings to the University President and administration, leaving final approval to the trustees of the University.

The FAC is currently made up of Profs. Merrifield, Park, Shwartz, Rothschild, and is chaired by Prof. Tom Dienes. In researching their reports, student evaluations, publications by the tenure candidate, and visits to the classroom are the standard methodology.

The three member student committee currently consists of Ellen Boegel, Steve Golfarb, and Steve Young. They are appointed by the SBA and are charged with sending out feelers regarding the students' views. They submit separate reports to the faculty, but leave the room before the actual voting.

From a practical standpoint, it is the actual vote of the tenured faculty which is the final decision. The University President and trustees are usually respectful of the law faculty's autonomy. Administrative opposition to faculty

recommendations is rare.

There are five criteria upon which the faculty decide, according to the NLC's tenure guidelines pamphlet. Effectiveness as a teacher is the most important, agreed Prof. Robinson, Banzhaf, and Dienes. Considered are student evaluations, teaching materials used or produced, and faculty class visitation. Students often criticize the tenure procedure as not containing enough channels for student input. It can be argued that students do not have the same stake in the resulting decision as does the faculty, since the students will spend much less time in the National Law Center than does the faculty. Also, said Dienes, "If students give specific input to the committee, it tends to be more favorable. Students are not apt to volunteer negative comments." For the most part, the weight student opinion carries is up to the discretion of the individual faculty members.

The second tenure criterion is the quality and quantity of professional writings. "The minimum requirement is generally considered to be one article published in a major law review," said Dienes. One or more faculty members are assigned to evaluate the writings of the tenure candidate. The faculty selects two outside persons, and the candidate selects one outside to review the publication.

Most students, and even some faculty members would prefer to see less emphasis on scholarly writings. Dienes explains the importance of publications as enhancing the reputation of the university by showing that its faculty is of the highest academic quality. Moreover, published

articles are an indicator of the candidate's ability and competency to analyze and work through a complex legal issue, he said.

It is impossible to determine exactly how much importance is placed on publication in comparison to other criteria, but conclusions can be drawn from statistics. In "A comparison of Faculty Production," by Ira Mark Eilman, appearing in the Journal of Legal Education (12-83), the NLC did not make the list of the 41 schools boasting of the most prolific professors contributing to law reviews from 9-79 to 6-82. Two inferences can be made. Quality, not quantity, is the measure of the writing considered at the NLC. Another is that publication is not the ultimate criteria in granting tenure. The statistics quoted above do not include textbooks, and the NLC faculty is "top heavy" in that area, according to Dienes.

The quality and quantity of other professional and civic activities is the third criterion according to the NLC pamphlet. Participation in professional associations and meetings and pro bono legal activities are all considered. Prof. John Banzhaf believes that legal activism advances the law more so than does publication, and should be of greater importance in tenure decisions. The logic here is that the courts are more the laboratories for legal innovation and have more practical effect in advancing the law than scholarly discourse.

The fourth criterion is law school and university activities, which includes counseling of students and student organizations, committee work, and

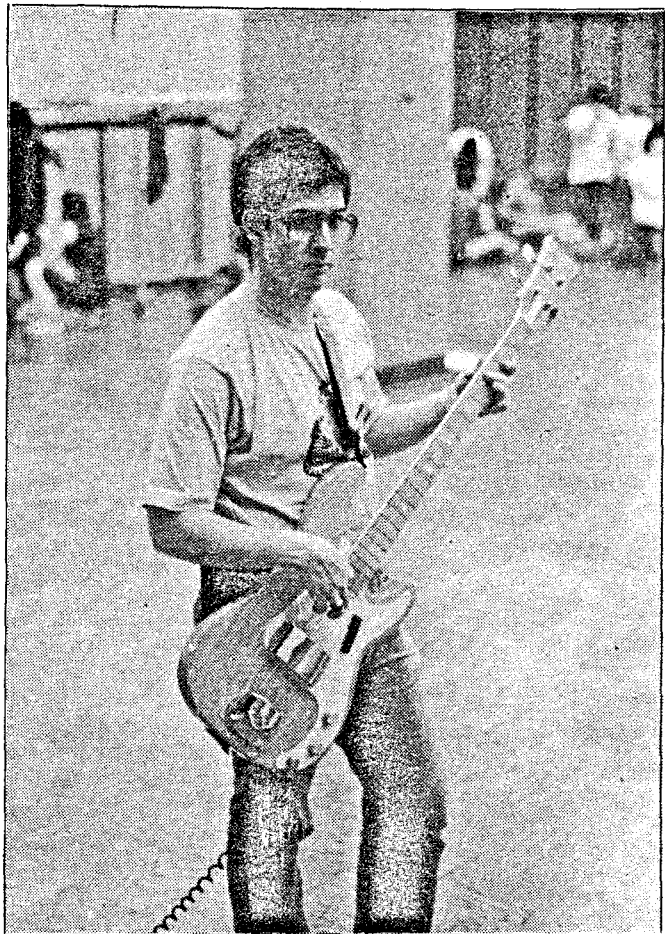
cooperation in working with colleagues in furthering the purposes and activities of the law school. This is where the personality of the candidate as well as his or her ability to get along with colleagues is evaluated. Young mavericks may have difficulty passing this test.

The fifth and final criterion is an estimate of continuing competence and effectiveness in the above respects during the balance of the faculty member's teaching career. This is determined by evaluating the totality of the other information assembled.

A criticism among students of the tenure procedure is that the result is a fairly homogeneous faculty. The hiring of women and minority faculty members is more the concern of the original appointment process. An examination of the background of the NLC's 151 faculty members reveals that in fact 111 hold law degrees from seven schools; the NLC leads with 40, Harvard is second with 23, Yale, 10; Georgetown, 16; Michigan, 9; Columbia, 8; and Northwestern, 5. However, these are misleading statistics. The majority of those surveyed are part-time lecturers who are practitioners in the area. This only indicates that many of the leading Washington litigators have NLC degrees. Of the 40 full-time professors surveyed, JDs were earned from 22 different institutions, and the 17 that earned advanced degrees came from 10 schools. The NLC, is represented among full-timers seven times for JDs, and twice more with LL.M's. Harvard is second in both categories with four and five respectively. No data is available to

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NLC-TV La



by Matthew McGrath

One of the classic 'forseeability' hypotes ever to come out of an NLC classroom concerns a tortious legless beggar who shouts, "I'm Napoleon! On to Moscow!" The similarity between this delusion of grandeur and that of the administration's current siege on the "top ten" is not lost on the writers and producers of this year's *Law Revue* entitled "NLC-TV".

NLC-TV is *Law Revue VI* (they count them like Super Bowls— The administration isn't the only crowd looking for prestige). The show parodies the programming of a typical TV network, a la SCTV, from early morning religious programming to a late night talk show. But NLC-TV substitutes your favorite professors for the TV stars and sports announcers, creating a mixture of images that is ripe for comedy. Since the security around *Law Revue* is tighter than that at the White House, the jokes can't be divulged. But the way they stick needles into the faculty, they should subtitle NLC-TV "Skewered Transactions."

The real story, though, is not what will be on stage on this Saturday night — it's what went on before that time. For the last two months, 70 students have spent increasing amounts of scarce time writing and learning lines, getting down dance steps, and working out technical glitches. This is all accomplished despite a full school load and sometimes a job or family

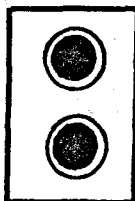


CAST OF LAW REVUE VI

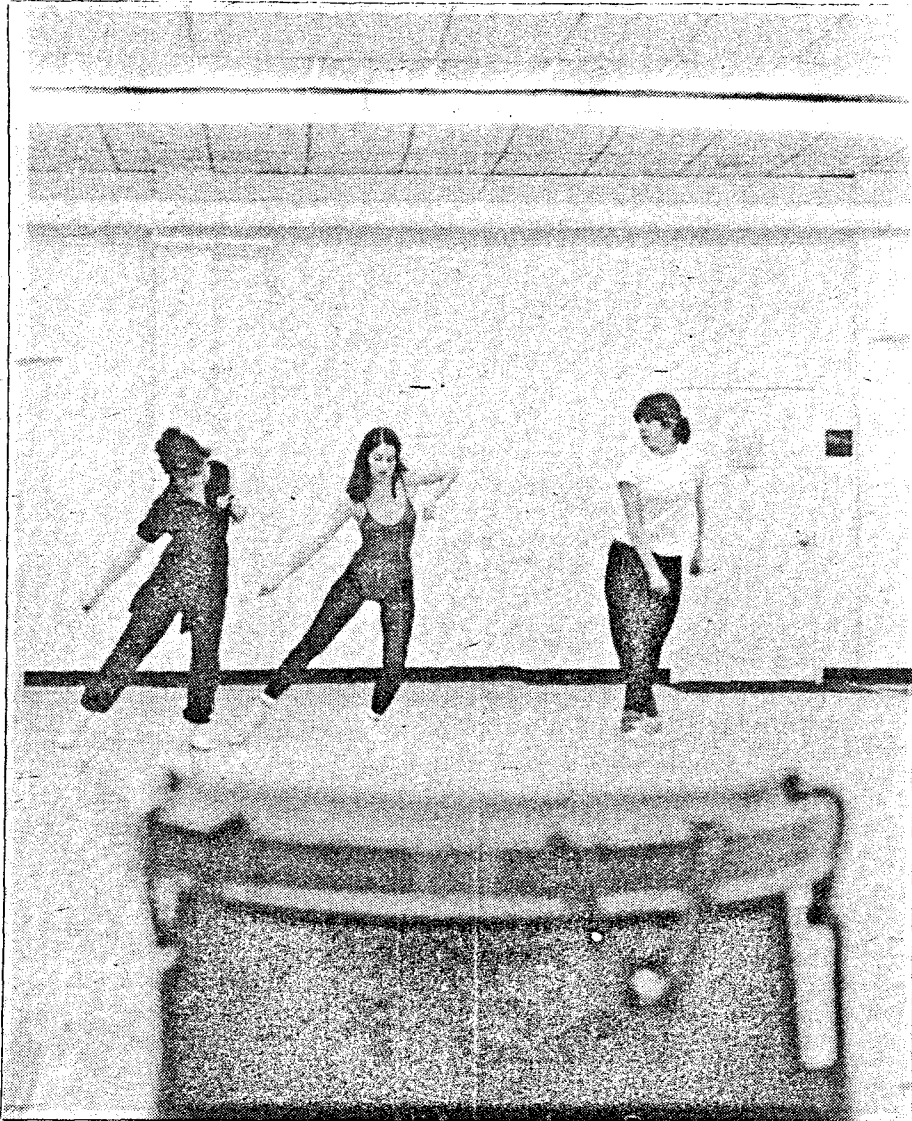
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Mauro Montoya
Ellen Meriwether
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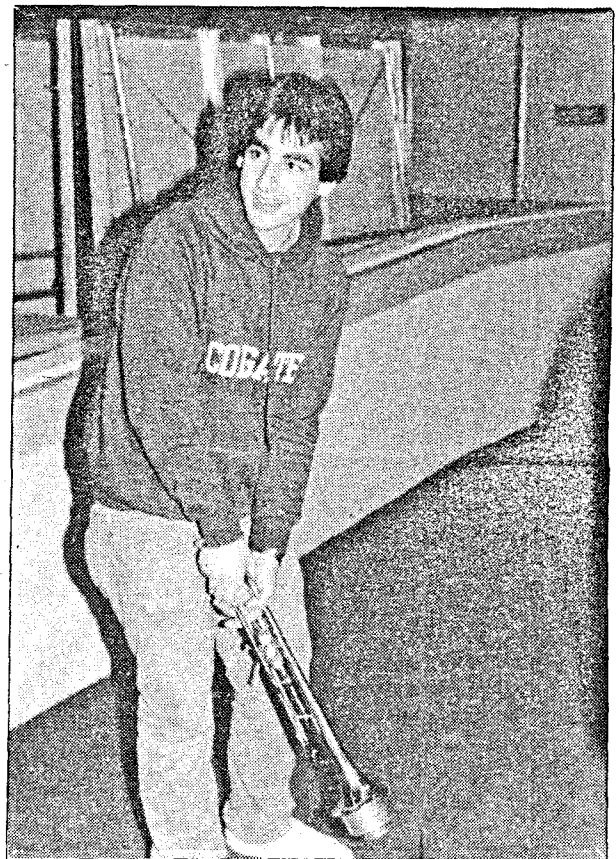
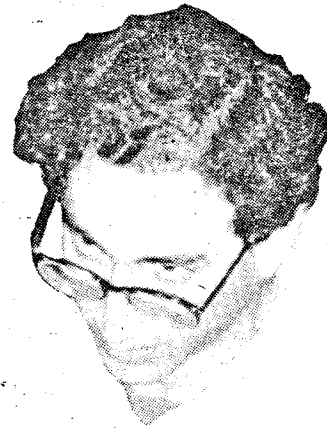
Law Revue VI



The result is a very entertaining string of songs, skits and dance numbers.

And what is the reward? According to co-directors Owen Rumelt and Alan Nessman, it's fun. It's something for everyone involved to look forward to as a release at the end of the day. And most importantly, they point out, "Dean Barron is finally getting the media access that he deserves."

It isn't the Bolshoi Ballet, but the Law Revue is deservedly SRO again this year, because there's nothing funnier than a good-natured take-off on such a serious institution. So, put Moscow off until Sunday, and enjoy NLC-TV on Saturday.



LAW REVEUE CO DIRECTORS OWEN RUMLET AND ALAN NESSMAN WISH TO THANK

Meg, Fred, Pete, Sylvie, Nin, Kathleen, Elaine, Tony, Eric, Jeffrey, Alan— for making sure we had something to put on stage.

Writers— for making sure we had something to say on stage.

Ticket Sales— for making sure we had people on the other side of the stage.

Financial directors— for making sure we had the money to put people on stage

Production and costume directors— for making sure we had something to wear on stage.

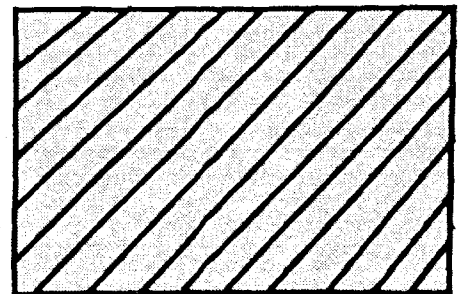
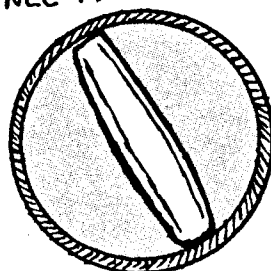
and the Cast— for putting in a top notch effort and really knocking themselves out.

Photos by Rick Ripley

Cynthia Juco
Irwin Izen
John Imhof
Nini Hawthorne
Sharon Hallanan
Howard Gross
Jolene Grimm
Mario Greszes
Lucy Grantham
Sharon Goldsmith
Laura Gobrecht
Ann Marie Gbbs
Charles Gacopelli

Caren Fox
Paul Fiers
Marla Durben
Jesse Dillon
Fred Crouch
David Craven
April Breslaw
Kathleen Brennan
Alan Boyd
David Barsky
Stuart Address

NLC-TV



Great Expectations

Congratulations Kent Murphy and company! The Advocate wishes you success in the next year.

This SBA term is going to be one of the most challenging in recent memory. Many key issues such as the credit—no-credit option, the elimination of the night school, and an advisory system, will demand much time and commitment from the SBA and the students at the NLC.

Many new ideas can be implemented during this SBA term. The officers and representatives are enthusiastic about their positions. The Advocate hopes that this enthusiasm carries throughout the term. It is going to be an exciting year with possible ramifications not only to NLC students but to the community as well. The term will demand the utmost from Murphy and company. Good luck!

The End

They went ahead and did it. Despite strong objections and calls for delay, the faculty voted 21 to 18 in favor of eliminating the night division.

It is an embarrassing experience for the National Law Center. We have been considered one of the top law schools in the country. We now look like a second-rate institution trying to make it into the big-time by doing what the big boys do—because they do it, not because it's necessarily best. For the night students and night alumni this is a slap in the face. We regret the perpetuation of elitism in attending law school.

From Supporters of the Night School

At last week's faculty meeting Prof. Harold Green referred to evening division students as mere "warm bodies." Fortunately during the past month an overwhelming number of students, alumni, and community members have demonstrated that they consider evening students prized assets of the NLC, not "warm bodies." By attending forums, signing petitions, writing letters lobbying faculty, buying buttons, etc., night school supporters showed that they appreciate the value of the evening J.D. program in a way that 21 faculty members proved incapable of doing.

Ironically the effort to save the night school has provided an unprecedented opportunity for and evening students as well as alumni to work together and discuss the comparative advantages and disadvantages of participating in the day vs. evening programs. A new dialogue between students and faculty has emerged regarding educational philosophy and it often highlights the key role played by the night school. Sadly, Dean Barron needs only to convince the Board of Trustees that there is merit to the proposal he initiated and G.W. will completely turn its back on a program endorsed by so many concerned parties in recent weeks.

Supporters of the Night School thanks all faculty members who considered its written and oral comments on the proposal. SNS applauds the 18 faculty members and students who represented the popular will of the NLC community by voting in opposition to the proposal. We urge the Board of Trustees to recognize the disservice to the community and the NLC represented by last week's vote and to vote to maintain one of the country's leading night law school programs.

Tenure from page 3

analyze the political persuasion and personality of each professor, but Prof. Dienes feels that the NLC contains a whole spectrum from conservatives to liberals.

The purposes of granting tenure to faculty members include job security. "A potential professor would be hesitant to leave a lucrative practice for a lower paying job with little security," said Banzhaf. "The most important reason for granting tenure is to protect academic freedom," said Dienes. Banzhaf agreed and added the example of Monroe Freedman, a former professor at the NLC, who was an outspoken advocate of controversial theories on criminal law. Chief Justice Burger then on the Court of Appeals, tried to get him fired from his position, but freedman was protected by tenure.

The side effects of striving to achieve such security is that on one hand there is the risk of "faculty deadwood," which plagues many universities, and on the other hand younger, untenured faculty are ironically stifled in terms of academic freedom, "to walk on eggs" as Banzhaf said, in terms of legal activism and research and writing. No one would know this better than Banzhaf, who is the only member of the faculty at the NLC to be originally denied tenure. Banzhaf's ardent advocacy for a clinical law program and his legal activism was apparently disturbing to the older and more traditional members of the faculty who feared the law school would suffer adverse

publicity from Banzhaf's activities. Banzhaf also ran afoul of criterion number four mentioned earlier. He believes that he may not have been considered "collegial" enough for some faculty members. Protests by students and testimonials on Banzhaf's qualifications assisted the faculty in their decision to reconsider, and Banzhaf was granted tenure in a re-vote in light of the "new evidence."

The Banzhaf episode was in 1971. Can it happen again? It probably will not as long as the faculty adheres to principles of neutrality and objectivity, evaluating untenured faculty by their own specified criteria, balancing each factor in proportion to the unique talents of the particular candidate being examined, and at the same time, always keeping in mind the ultimate ideals of academic freedom and the providing of a quality legal education

C/NC from page 1

numerical grades in courses should, "arguably withdraw from school altogether until he can pull his act together."

As an alternative to his own proposal, Raven-Hansen suggests that the C/NC option be reduced to four voluntary hours, down from its present 12.



Out of the Main

'Tis a Happy Country

by Jack F. Williams

Today, if one took a poll, one would find that lawyers would not win any popularity contests. It would seem that the popularity of the legal profession is at an all time low. Rest assured, things weren't always this bad for lawyers. At other times, things have been worse.

The first years of the colonial experience were unwelcome years for the legal profession. Lawyers were not welcome within the borders of some colonies. Pleading for hire in Massachusetts was prohibited under the Body of Liberties (1641), and Connecticut and Virginia excluded lawyers from practicing in their courts. Francis R. Aumann probably summed up the colonial sentiments in *The Changing American Legal System* when

he said, "In Pennsylvania it was said they have no lawyers. Everyone is to tell his own case, or some friend for him ... 'Tis a happy country."

In colonial America, distrust of lawyers became an institution. The lower classes came to identify lawyers with the upper class. It is true that the upper class could more readily afford the talents of the lawyer. Yet, the upper class did not trust the lawyer either. Debtors identified lawyers with the merchant class creditors. Creditors identified lawyers as the champions of the debtor class.

It is said that lawyers became even more unpopular during the Revolutionary Era. The legal profession was associated with the Tories. Many lawyers were loyalists and some even left for England,

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Night School

adverse publicity from the proposal, and said he was committed to helping to make the evening division even better in the future.

Prof. David Robinson urged the faculty not to vote the evening program out based on statistics that are not accurate predictors. He said that he and Prof. Roger Transgrud had compared the performance of their day and evening classes and could find no significant difference between day and evening students. Prof. James Brown later echoed these remarks, saying that he gave the same exam to his day and evening property sections, and found no difference in the quality of answers given by students.

Prof. Tom Dienes rose briefly to re-emphasize concern for curriculum reform, and to reiterate the assertion that the evening division had changed. "Legal education is not what it was 10 to 20 years ago," he said.

One of the most vocal opponents of the proposal over the month it had been circulated, Prof. Ralph Nash, said that to him, it had been a privilege to serve the constituents of the evening division. "I don't think we have to continue to serve these people, but I see no reason not to," he said. "Serving the evening student has been a significant benefit to us," he said. Nash said that he had been an evening school graduate of the NLC, and that it had changed his life.

Nash explained that over the last month he and Dienes had taken the debate to the community. Nash said that he had been interviewed by several members of the local media, and that he and Dienes had even debated the proposal on local radio talk shows. He said the reason the community was interested was because "It values the service we've chosen to give them."

Prof. Joel Seligman, officially a visiting professor at the NLC but who indicated at the meeting that he intends to remain here, said the one weakness that he saw in the NLC was its curriculum. He said that within his area of specialization, corporations and securities law, there was no graduate program or even advanced course offerings. Seligman said Barron had told him that was a result of a redundancy of course offerings required by the dual divisions. Seligman also reminded faculty that there were other law schools in the area which provided evening legal education.

Upon Seligman's completion, he was quickly rebuffed by Kayton, who told Seligman that if he wanted a program in securities law, he should make one. "You can have any graduate program you want, if you make it of excellence," Kayton said.

Out of the Main

from page 6

after the Revolutionary War; many were not loyalists. Some lawyers, like

Alexander Hamilton, who was not a Tory himself, made a profession out of defending Tories against state confiscation laws during the latter

eighteenth century. During Shay's Rebellion, there were uprisings against courts and lawyers. The people received the lawyers as being too zealous in the oppression of debtors.

It was a common belief that the law was all tricks disguised by esoteric legal jargon spoken by unscrupulous men who built legal careers upon the runis of men. In 1782, St. John Cre'vecseur wrote, "Lawyers are plants that will grow in any soil that is cultivated by the hands of others; and when once they have taken

Prof. James Chandler, currently a visiting professor at Ohio State University, next rose to speak. (Both Chandler and Prof. Gerald Caplan had flown in for the vote from their host universities. Caplan is visiting at Yale.) Chandler said he supported the proposal. He said that Washington lacked a "truly first rate" law school, and said he thought that the NLC should fill the void. He also stressed that part-time legal education kept people from giving 100 percent to the study of law. "There is a dimension of learning which can only be achieved in a full-time day program," he said.

Prof. Glen Weston, the second most senior member of the faculty, urged the faculty not to "think of the past or the present, but of the future."

"How great a law school do we want to become?" he asked.

He analogized Dean Barron to General George Patton, whom Weston had served under in WWII. He said they both set seemingly impossible objectives and then pushed those around them to achieve those objectives. "Dean Barron has given us an objective of greatness," he said. "Jerry Barron deserves our support," Weston concluded.

The issue of crowding day students by adding another day section was raised by Mark Steichen, a day student. "We should be trying to accommodate the optimum number of students at the NLC, and not the maximum number," he said.

Ann Marie Gibbs, student member of the Committee on the 80s, voiced a procedural dissent to the proposal. She said that the haste of the committee left no opportunity for fairness. She admonished the faculty that passing the proposal after it had been hurried through committee would send the wrong message to the law community and would set a dangerous precedent for the future.

Dean Barron then finished discussion by saying that the proposal to eliminate the evening JD program had prompted the "worst experience of my deanship." However, he continued, "It has also been the most important."

The future of this law school is not with part-time education," he said. He concluded by saying that to make the NLC a better law school, "I'm willing to be an unpopular dean."

The final vote was taken after another motion to table failed. The proposal passed 21 to 18.

Correction

In the February 13th issue of the Advocate, quotations were mistakenly attributed to Carol Fishman. The remarks were made by Patricia Gurne.

root they will extinguish every other vegetable that grows around them. The fortunes they daily acquire in every province, from misfortunes of their fellow citizens are surprising!..."

If lawyers didn't win the West, they were right behind those who did. No town was too wild or too muddy for the frontier lawyer. Lawyers, like others, were out to seek their fortune in lands as well as litigation. The West proved fertile grounds for practioners of the law. Many a town grew up around a lawyer or two. All this didn't help the professional reputation one bit.

If lawyers were an evil, they were a necessary evil. The old, and in some jurisdictions not so old, common law pleadings mastered many a laymen in his attempt to gain admission to the legal machinery.

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Barbash from page 2

suffer any future injury due to the policy. Barbash called this an "incredible" case and said this type of result would become more common under a Reagan court.

In the struggle to balance free speech and national security interests, Barbash said "free speech has lost" and the trend would continue. He referred to a case involving an ex-CIA agent who wrote a book about his experiences. The Court held that the government had a right to censor writing of any sensitive issue, whether or not the author had signed a contract yielding his rights.

SBA from page 1

students, to provide educational and career counseling; (2) creating student-faculty committees facilitating open communications, (3) maintaining the credit/no credit option, which they say allows students greater scheduling flexibility and course variety, (4) increasing financial aid awards, which the administration claims is possible with the phasing-out of the night program, but which they say should be made possible regardless of the status of the night school with diligent efforts, (5) enforcing a strict policy of confidentiality of student private information, (6) promoting academic excellence by alternative means, retaining the night division and the expansive resources afforded by a diverse student community, (7) recruiting a Dean of Students, whose responsibility it would be to insure such amenities as coffee machines, a habitable student lounge, bike racks, etc., and (8) strengthening SBA into a more cohesive, visible, and effective association for all students to participate in and benefit from. "I hope students will voice views and come to SBA meetings and voice their opinions and help us offer viable solutions to NLC problems," stated Murphy.

Sharing the winner's circle are: in the Day Division, Clare Watt as vice-president, Miguel Acosta, April Breslow, Jim Jackson, and Collin Pettaway Jr., as Third Year Representatives; Karen Avaglamo, Bill Huskel, Brad Irelan, and Stasia Majidzadeh as Second Year

Representatives. In the Night Division, Keith Weal, Fourth Year Representatives; Buddy Le Savoy, Third Year; and Lance Johnson, Second Year.

Today, many people still view lawyers as a necessary evil at best. Chief Justice Burger has pointed out how complex and costly the legal system has become. Many people agree with what the Chief Justice has said. But is there a better way? There seems to be plenty of criticism about the legal profession but a void of feasible alternatives. There is arbitration, mediation, and other comparative law measures. But these are less alternatives than they are additions to the existing legal system.

Lawyers are like baseball coaches. It doesn't matter who wins, someone must lose. And losers are not pleasant people to be around. The loser on the field who takes his temper out on the coach is similar to the loser in the courtroom who takes his temper out on the lawyer who represented him. The reason is eternal—most litigants are not concerned with justice, they want to win.

Legal Clinics Profile

The Community Legal Clinics are now accepting applications from students who wish to participate in its clinical programs during the 1984-85 academic year. As some of the clinics have a limited enrollment, students must submit applications prior to pre-registration so that selections can be made on a lottery or merit basis. A brief description of each clinical program and the deadlines by which applications must be made appear below.

Students who have questions about any of the clinics are encouraged to visit the clinic offices, or to call 676-7463. Applications for the various clinical programs are available at the clinic, and when completed must be returned to 2000 L Street, N.W., Suite 307.

Civil Litigation Clinic

(Law 579, Sec. 11)

The Civil Litigation Clinic is the National Law Center's in-house program providing representation to low-income clients in the D.C. Court system. The program is open only to third year law students who must commit themselves to participating for both fall and spring semesters. A minimum of twenty hours per week must be devoted to the course, for which four graded credits will be received each term. Those who are unable to devote the required time to the litigation clinic during the academic year may wish to consider participation during the summer sessions. Students become court-certified and are permitted to counsel clients, draft pleadings, prepare cases for trial, conduct examinations of witnesses and argue cases under the close supervision of the clinic's attorneys. Most cases handled arise in the Small Claims, Landlord and Tenant, Family, and Civil Divisions of D.C. Superior Court, although there are limited opportunities available to argue cases in the District of Columbia Court of Appeals and in the United States District Court for the District of Columbia. A weekly two-hour seminar on substantive law and trial advocacy is also a requirement of the course. Prospective third year students who apply for the clinic will be interviewed, and a list of those selected to participate will be posted prior to pre-registration. As a new program providing legal services to Spanish-speaking persons has recently been instituted at the clinics, Spanish-speaking students are encouraged to apply. Applications must be submitted by February 29, 1984, to the Clinic office. Students should sign up for an interview at the time that they hand in their applications.

Consumer H-E-L-P Litigation Clinic

(Law 579, Sec. 12)

The new Consumer H-E-L-P Litigation Clinic provides representation to consumers whose complaints cannot be resolved through mediation. The clinic is open only to third-year students who must commit twenty hours per week for which four graded credits will be given. Students will determine case strategy, interview clients and witnesses, draft pleadings, conduct settlement discussions, and examine witnesses and argue cases under the supervision of the clinic's staff attorney. In addition to being certified for practice in the federal and D.C. courts, students will represent consumers before the D.C. Department of Consumer and Regulatory Affairs Administrative Law Judge. A weekly two-hour seminar on litigation practice is a requirement of the course. First preference will be given to students who have worked in the Consumer H-E-L-P Mediation Clinic. Applications must be submitted by February 29th to the Clinic office. Contact the supervising attorney, David Medine, with any questions at 676-4879.

Immigration Clinic

(LAW 346, Sec. 11)

Clinical work includes counseling and representations at deportation hearings, oral argument before the Immigration and Naturalization Service, Board of Immigration Appeals, U.S. District Court and the U.S. Court of Appeals. Students will assist immigration clients residing in the Washington area with a wide variety of problems, including adjustment from non-immigrant to immigrant status, obtaining visas for their relatives in other countries to enter the U.S., obtaining voluntary departure orders for those whose visas have expired and who are threatened with deportation, and obtaining citizenship in the U.S.

Only third year students will be allowed to represent clients at deportation hearings, appeals or appearances in federal court. Second year students will be able to appear with clients at interviews before the Immigration and Naturalization Service and to counsel clients on all aspects of immigration law. This clinic may be taken for from two to four credits, with a minimum of ten hours work per week required. A two hour weekly seminar and an additional weekly

security and wills, the seminar is designed primarily for the development of practical skills. There are 20-25 positions open for second and third year students; third year students will be given preference. Interested third year students should fill out an application and submit it to the Clinic office by February 29, 1984; second year applications are due by March 16, 1984. If the number of applicants exceeds the number of spaces, a lottery will be held prior to pre-registration and a list of those chosen will be posted. If unfilled spaces remain on the days of registration, they will be filled on a first come, first serve basis.

Small Business Clinic

(LAW 346, Sec. 13)

Students gain experience in business and law and client management by providing legal advice and assistance to prospective and existing small businesses in the D.C. Metropolitan area. Students interview clients, draft partnership agreements and profit and non-profit incorporation papers, help clients comply with local licensing and zoning requirements, review and draft commercial leases and contracts, and handle a variety of less common legal problems that small businesses confront.

CLINICAL APPLICATION DEADLINES SET

Many of the clinics described in this issue of the Advocate have set deadlines for applications. Students wishing to participate must hand in their applications by the stated dates so that selections can be made and posted prior to pre-registration. The deadlines are:

For third year students

Civil Litigation Clinic (Law 579, Sec. 11) — February 29
Consumer H-E-L-P Litigation Clinic (Law 579, Sec. 12) — February 29
Immigration Clinic (Law 346, Sec. 11) — March 5

Administrative Advocacy Clinic (Law 346, Sec. 12) — February 29

Small Business Clinic (Law 346, Sec. 13) — March 5

For second year students

Immigration Clinic (Law 346, Sec. 11) — March 16

Administrative Advocacy Clinic (Law 346, Sec. 12) — March 16

Small Business Clinic (Law 346, Sec. 13) — March 16

Applications are available at and must be turned in to the clinic offices at 2000 L Street, N.W., Suite 307. Students who have questions about the clinics or the application process should call 676-7463 and ask for one of the supervising attorneys.

meeting with supervisor are mandatory. Students must be enrolled in Immigration Law (586) or have successfully completed the course. Written applications for the clinic should be submitted to the Clinic office no later than March 5, 1984 by third year students, and by March 16, 1984 for second year students. Final selections will be made by a lottery and posted prior to pre-registration.

Administrative Advocacy Clinic

(LAW 346, Sec. 12)

This clinic provides students an opportunity to serve indigent clients, especially the elderly, in pursuing their rights and benefits before various government agencies. The Community Legal Clinics provides this experience through two programs: The Legal Aid and Advocates for Older People (AOP) offices located at 2000 L Street, N.W., Suite 307. This academic year the Community Legal Clinics has also initiated an effort to provide legal assistance to the Spanish-speaking community in D.C. Students who speak Spanish are encouraged to apply. Under the supervision of staff attorneys, the students represent clients both in formal and informal advocacy settings. Students will learn such basic skills as interviewing, negotiating and drafting. They may also have an opportunity to present a client's claim at an administrative hearing or before an administrative appeals tribunal.

Students earn two credits (pass-fail) per semester for a minimum of ten hours work per week. In addition to their work with clients, students are required to take a seminar which meets weekly for two hours. While some class time is devoted to substantive law in such areas as social

Students may take the clinic for two to four credits. Five hours a week is required for each credit hour earned, and a two-hour weekly seminar is part of the clinic. Successful completion of corporations and tax is required for admission to the clinic. Third year students will be given preference, although some spaces may be available for second year students. The clinic is limited to ten students per semester. Third year students should submit applications to the Clinic office by March 5, 1984; second year students' applications are due by March 16, 1984.

Outside Placement

(LAW 346, Sec. 14)

Students can register for placement with many District and Federal Government agencies and public interest organizations. A wide variety of suggested placements already available are compiled in the Community Legal Clinics office. Additionally, students can arrange independent projects with other organizations. All projects must receive prior approval of the Director of Clinical Programs or his staff.

Students can receive one to four credits per semester. Each credit reflects an average of five hours of legal work each week or approximately sixty hours of work per credit over the semester. Grading for all outside placements is credit-no credit; however, no credit will be awarded until the student's placement supervisor verifies that he or she has satisfactorily performed the work and fulfilled the number of work hours agreed upon. Students cannot receive academic credit for outside placement if they are receiving pay for their work. No prior application is required, but students must fill out a

registration form in the Clinic office on the day of pre-registration. Students with questions should contact supervising attorneys Deborah Barthel or Leslye Orloff at 676-7463.

Consumer Help Mediation Clinic

(LAW 395)

The Consumer H-E-L-P Mediation Clinic is the community ombudsman service which handles consumer complaints primarily in the Washington Metropolitan area. The Clinic works with the local and national news media to aid in the resolution of consumer problems as well as educate the public in methods of consumer self help.

Consumer H-E-L-P acts as a neutral intermediary to assist consumers and businesses in negotiating fair and reasonable settlements of their disputes. Complaints are made in writing or over the telephone hotline (775-8567) by consumers who usually have neither the skills nor financial ability to advocate effectively for themselves. In the past Consumer H-E-L-P has been affiliated with Contact 4 (WRC), Metromedia Channel 5 and, most recently, Consumer 9 (WDVM). During such time the clinic has exposed major consumer stories some of which have been the subject of TV's coveted Emmy Awards.

The Clinic is manned by second and third year law students taking the Clinic for credit-no credit as well as first year law and undergraduate students who serve as volunteer interns. The Clinic holds weekly seminars in which all students are trained in negotiation and mediation techniques of consumer law in addition to being taught important highlights of the pertinent consumer protection statutes.

The Clinic can be taken for two or three credits. Four hours a week is required for each credit hour earned. The one-hour a week seminars must also be attended. Volunteers must give a minimum six hour per week commitment.

Interested students should contact the supervising attorney for the Clinic, David Medine, 676-4879.

Consumer Help Bankruptcy Clinic

(LAW 395)

The CONSUMER HELP BANKRUPTCY CLINIC was established in 1978 by the Consumer Protection Center in conjunction with the D.C. Bar Foundation to provide assistance to low-income residents of the District of Columbia. Bankruptcy Clinic student case-workers handle a wide range of bankruptcy and credit-related problems, and provide a variety of legal and informal financial counseling services including client interviews, preparation of consumer bankruptcy petitions and Chapter 13 Wage Earner Plans, and negotiation of informal debt reduction and consolidation agreements. All work is conducted under the supervision of the Clinic's Director, an attorney, and the Staff Paralegals. Students must also attend a weekly two-hour seminar on substantive bankruptcy law.

The Clinic is open to both second and third year law students for either two or three credits. Third year students are eligible to become certified for practice in the United States District Court for the District of Columbia. As of February 1, 1984, local rules provide for law student practice in the United States Bankruptcy Court for the District of Columbia for both second and third year students with prior Clinic experience. Students interested in participating should call (676-4971) for further information.